

Washington, DC - Rep. Linda Sánchez (D-CA) introduced legislation that will protect the elderly and their families from being forced to accept mandatory arbitration clauses when they enter into contracts for nursing home care.

The Fairness in Nursing Home Arbitration Act will make pre-dispute, mandatory, binding arbitration clauses in contracts between long-term care facilities and their residents unenforceable. This legislation will not prohibit arbitration, but will simply ensure that nursing home residents have the choice whether to arbitrate a dispute after it has arisen.

“During the time I chaired the Subcommittee on Commercial and Administrative Law, I held four hearings on arbitration matters,” said Rep. Linda Sánchez. “I was both shocked and heartbroken when I heard the testimony of witnesses including one whose 92-year old mother sustained a broken leg and inadequate care while living in a nursing home. The family felt voiceless and powerless because of a contract that had an arbitration clause in the fine print.”

The longterm care industry is one stark example where businesses draft “take-it-or-leave-it” admission agreements for prospective residents that include pre-dispute mandatory arbitration clauses. For families who are unable to provide adequate care in the home setting, the need for an immediate placement for their loved one makes the “take-it-or-leave-it” choice, no choice at all.

“Arbitration agreements are often buried in overly complicated contracts, and many consumers do not realize they are waiving their legal options,” continued Sánchez. “We have to protect families and seniors, and that includes giving them the tools they need to protect their full legal rights.”

While arbitration can be an economical and efficient alternative to settling a dispute in court, it can also limit the types of evidence that can be presented and the type of remedies that can be imposed for wrong doing. With this legislation, families can have the option to choose to arbitrate once they know the facts, rather than be forced into a one-sided agreement.